

November 13, 2020

VIA E-FILING

Hon. Paul A. Engelmayer
United States District Court
Southern District of New York
40 Foley Square, Room 2201
New York, New York 10007

Re: Smith v. Calypso Charter Cruises, Inc. and
Frank Giordano Jr., Individually (19 Civ. 7076L (PAE))

Dear Judge Engelmayer:

We represent the Calypso Defendants in this matter and submit this letter to update the Court and request an extension of the Briefing Schedule issued by the Court on September 28, 2020 [D.E. 38]. This is the Calypso Defendants' second request overall, but first sole request, for an adjournment of the Briefing Schedule. Under the current Briefing Schedule, the joint statement of facts is due November 13, 2020. Pursuant to the current Briefing Schedule, the Calypso Defendants duly sent a draft joint statement to Plaintiff's counsel on November 6. Despite multiple phone calls and e-mails, counsel did not provide Plaintiff's proposed joint statement or proposed revisions to our draft until today, November 13 at 12:50 p.m. Given counsel's significant redline edits, the Calypso Defendants would be unjustly deprived of a good faith conferral on the joint statement if it must rush into a compromise in order to serve the Court today. Therefore, we respectfully request the Court issue an order adjourning the joint statement of facts to Wednesday, November 18, 2020 and the schedule for the motion for summary judgment as follows:

- December 2: Defendants file their motion for summary judgment (currently November 27)
- December 16: Plaintiff's opposition brief is due (currently December 11)
- December 23: Defendants' reply brief is due (currently December 18)

Further, we note that the Calypso Defendants are still awaiting: (1) a verified copy of Plaintiff's responses to interrogatories, as Plaintiff untimely served an unverified copy; and (2) the last known address of the person who purportedly has Plaintiff's and his catering companies' tax information, which was not provided in the interrogatory answers. In a good faith attempt to avoid an adjournment of the current Briefing Schedule, the Calypso Defendants permitted both to be served as soon as Plaintiff could do so, even after the discovery deadline of October 30. Unfortunately, Plaintiff has delayed in these endeavors as well.



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A proposed order granting the above amended schedule is also enclosed for the Court's review.

Respectfully Submitted,

/s/ Joseph E. Czerniawski
Joseph E. Czerniawski, Esq.

Cc: All Parties (via electronic filing)

Granted. The Court will adopt the defendants' proposed briefing schedule.

SO ORDERED.

A handwritten signature in blue ink that reads "Paul A. Engelmayer". The signature is written in a cursive, flowing style.

PAUL A. ENGELMAYER
United States District Judge

November 16, 2020